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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

EXAMINER	
LEWIS, CHERYL RENEA	
ART UNIT	PAPER NUMBER
2177	10

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/041,028	Applicant(s) HARRIMAN, DAVID	
	Examiner Cheryl Lewis	Art Unit 2177	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 December 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *9*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-18 are presented for examination.

INFORMATION DISCLOSURE STATEMENT

2. The information disclosure statements filed on June 16, 2003, paper no. 9, complies with the provisions of MPEP § 609. They have been placed in the application file, and the information referred to therein has been considered as to the merits.

DRAWINGS

3. The applicant's drawings filed on December 28, 2001 have been approved by the draftsperson.

Remarks

4. The examiner recommends that the applicant should provide an update status for the applications listed on pages 2 and 3 of the Preliminary Amendment A received on April 11, 2002, paper no. 6.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent

and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-3, 5-9, 11-15, 17, and 18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 6, and 8 of U.S. Patent No. 6,175,884 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim language of claims 1-3, 5-9, 11-15, 17, and 18 of the instant application are similar to the claim language of claims 1, 6, and 8 of Pat. No. 6,175,884. It appears that the applicant has broaden the claim language of claims 1, 6, and 8 of Pat. No. 6,175,884 which is now presented in pending claims 1-3, 5-9, 11-15, 17, and 18 of the instant application. Official Notice is given that it is well settled that the removal of limitations from a claimed invention, where the remainder of the structure is unaffected, would have been obvious. Both

claims 1 of the instant application and claim 1 of Pat. No. 6,175,884 comprise the following similar obviousness type claim limitations which are presented in *italicized* format:

Claim 1 of the instant application comprises: "*a data path output unit to output a packet header, the packet header including a first field*"

Claim 1 of Pat. No. 6,175,884 comprises: "*a data path* input/*output unit to output a packet header, the packet header including a* request/completion *field*"

The difference between pending claim 1 of the instant application and claim 1 of Pat. No. 6,175,884 consists of the following:

Claim 1 of the instant application comprises: including *a* first *field* to extend one of a second field or a third field depending on the contents of the second field.

Claim 1 of Pat. No. 6,175,884 comprises: "*a* request/completion *field* to indicate whether the packet header is a request packet header or a completion packet header; a read/write field to indicate whether the packet header is for a read packet or for a write packet, the read/write field separate from the request/completion field, the read/write field along with the request completion field further to indicate whether a length of data is to follow the packet header, the request/completion field and the read/write field located in the first byte of the packet header; and a data length field to indicate the length of data."

The similarity of claims 2, 8, and 14 of the instant application and claim 6 of Pat. No. 6,175,884 is presented in *italicized* format and the difference of claims 2, 8, and 14 of the instant application and claim 6 of Pat. No. 6,175,884 is presented in **bold** format:

> Claims 2, 8, and 14 of the instant application comprises: "**wherein the second** *field* **is a** *type field*"
>
> Claim 6 of Pat. No. 6,175,884 of the instant application comprises: "**the request header further includes a space** *field* **to indicate a destination space** *type*"

The similarity of claims 3, 9, and 15 of the instant application and claim 1 of Pat. No. 6,175,884 is presented in *italicized* format and the difference of claims 3, 9, and 15 of the instant application and claim 1 of Pat. No. 6,175,884 is presented in **bold** format:

> Claims 3, 9, and 15 of the instant application comprises: "*the* **third** *field is a length field*"
>
> Claim 1 of Pat. No. 6,175,884 of the instant application comprises: "**a request/completion field to indicate whether the packet header is a request packet header or a completion packet header; a read/write field to indicate whether the packet header is for a read packet or for a write packet, the read/write field separate from the request/completion field, the read/write field along with the request completion field further to indicate** *whether a length of data* **is to follow the pack t header, th r quest/completion field and the read/write**

field located in th first byt of the packet header; and *a data length field to indicate the length of data.*"

The similarity of claims 5, 11, and 17 of the instant application and claim 8 of Pat. No. 6,175,884 is presented in *italicized* format and the difference of claims 5, 11, and 17 of the instant application and claim 1 of Pat. No. 6,175,884 is presented in **bold** format:

Claims 5, 11, and 17 of the instant application comprises: "**wherein the first field is located between and immediately adjacent to the type field and the** *length field in the packet header.*"

Claim 8 of Pat. No. 6,175,884 of the instant application comprises: "**a sending agent including a sending agent data path input/output unit to output a packet header, the packet header including a request/completion field to indicate whether the packet header is a request packet header of a completion packet header, a read/write field to indicate whether the packet header is for a read packet or for a write packet, the read/write field separate from the request/completion field, the read/write field along with the request completion field further to indicate whether** *a length of data is to* **follow** *the packet header,* **the request/completion field and the read/write field located in the first byte of the packet header and a data length field to indicate the length of data; a receiving agent including a receiving unit data path input/output unit to receive a**

packet head r; and a data path coupled to th s nding unit and the receiving unit."

The similarity of claims 6, 12, and 18 of the instant application and claim 8 of Pat. No. 6,175,884 is presented in *italicized* format and the difference of claims 6, 12, and 18 of the instant application and claim 8 of Pat. No. 6,175,884 is presented in **bold** format:

Claims 6, 12, and 18 of the instant application comprises: "***a type** field is located in the first byte of the packet header to be output by the data path output unit.*"

Claim 8 of Pat. No. 6,175,884 of the instant application comprises: "**a sending agent including a sending agent** *data path* **input/***output unit* **to** *output a packet header*, **the packet header including a request/completion field to indicate whether the packet header is a request packet header of a completion packet header, a read/write field to indicate whether the packet header is for a read packet or for a write packet, the read/write field separate from the request/completion field, the read/write field along with the request completion field further to indicate whether a length of data is to follow the packet header, the request/completion field and the read/write field located in the** *first byte of the packet header* **and a data length field to indicate the length of data; a receiving agent including a rec iving unit** *data path* **input/***output unit to* **receive** *a packet header*; **and** *a data path* **coupled to the sending unit and the receiving unit.**"

The similarity of claim 7 of the instant application and claim 8 of Pat. No. 6,175,884 is presented in *italicized* format and the difference of claim 7 of the instant application and claim 8 of Pat. No. 6,175,884 is presented in **bold** format:

> Claims 7 of the instant application comprises: "*a data path input unit to receive a packet header*, **the packet header including a first field to extend one of a second field or a third field depending on the contents of the second field**."
>
> Claim 8 of Pat. No. 6,175,884 of the instant application comprises: "**a sending agent including a sending agent** *data path input*/**output** *unit* **to output a packet header, the packet header including a request/completion field to indicate whether the packet header is a request packet header of a completion packet header, a read/write field to indicate whether the packet header is for a read packet or for a write packet, the read/write field separate from the request/completion field, the read/write field along with the request completion field further to indicate whether a length of data is to follow the packet header, the request/completion field and the read/write field located in the first byte of the packet header and a data length field to indicate the length of data; a receiving agent including a receiving unit** *data path input*/**output** *unit to receive a packet header*; **and** *a data path* **coupl d to th s nding unit and th r ceiving unit**."

The similarity of claim 13 of the instant application and claim 8 of Pat. No. 6,175,884 is presented in *italicized* format and the difference of claim 13 of the instant application and claim 8 of Pat. No. 6,175,884 is presented in **bold** format:

> Claims 13 of the instant application comprises: "**a transmitting device to transmit a packet header, the packet header including** *a* **first** *field* **to extend one of a second field or a third field depending on the contents of the second field; and** *a receiving device couple to the* **transmitting device**, *the receiving device to receive the packet header.*"
>
> Claim 8 of Pat. No. 6,175,884 of the instant application comprises: "**a sending agent** *including a sending agent data path input/output unit to* **output** *a packet header*, **the packet header including a request/completion** *field* **to indicate whether the packet header is a request packet header of a completion packet header, a read/write field to indicate whether the packet header is for a read packet or for a write packet, the read/write field separate from the request/completion field, the read/write field along with the request completion field further to indicate whether a length of data is to follow the packet header, the request/completion field and the read/write field located in the first byte of the packet header and a data length field to indicate the length of data; a receiving agent including** *a receiving unit* **data path input/output** *unit to receive a packet*

header; **and a data path coupled to th s nding unit and the** *receiving unit*."

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Lyon et al. (Pat. No. 5,920,705, filed January 30, 1997, hereinafter Lyon).

9. Regarding Claims 1, 7, and 13, Lyon teaches a method and apparatus for dynamically shifting between routing and switching packets in a transmission network.

The method and associated system for dynamically shifting between routing and switching packets in a transmission network as taught or suggested by Lyon includes:

a data path output unit (col. 13, lines 26-36, col. 14, lines 39-64, col. 65, lines 1-28)/input unit (col. 23, lines 61-64, col. 24, lines 4 and 5, col. 68, lines 30-42)/transmitting a packet (Abstract, lines 3-6, col. 65, lines 50-61)/receiving a packet (Abstract, line 8, col. 5, lines 9-19 and 29-31, col. 6, lines 5-6 and 10-13) to output a packet header (col. 11, lines 43-46, col. 65, lines 1-28), the packet header including a first field (col. 22, lines 42-67, col. 23, lines 1-33) to extend one of a second field (col. 22, lines 42-67, col. 23, lines 1-33) or a third field depending on the contents of the second field (col. 22, lines 42-67, col. 23, lines 1-33).

10. Regarding Claims 2, 8, and 14, Lyon teaches the second field is a type field (col. 22, lines 47-54).

11. Regarding Claims 3, 9, and 15, Lyon teaches the third field is a length field (col. 22, lines 60-67, col. 23, lines 1-30).

12. Regarding Claims 4, 10, and 16, Lyon teaches the first field is used to extend the length when the type field (col. 22, lines 47-54) indicates a memory (col. 17, lines 11-40) read request transaction (col. 69, lines 24-42).

13. Regarding Claims 5, 11, and 17, Lyon teaches the first field is located between and immediately adjacent to the type field and the length field in the packet (col. 22, lines 60-67, col. 23, lines 1-30).

14. Regarding Claims 6, 12, and 18, Lyon teaches the type field is located in the first byte (col. 54, line 31) of the packet header to be output by the data path output unit (col. 22, lines 60-67, col. 23, lines 1-30, col. 65, lines 1-28).

CONCLUSION

15. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

A. Arrow et al. (U.S. Pat. No. 6,154,839) discloses translating packet addresses based upon a user identifier; and

B. Nessett et al. (U.S. Pat. No. 6,055,236) discloses a method and system for locating network services with distributed network address translation.

NAME OF CONTACT

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Lewis whose telephone number is (703) 305-8750. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (703) 305-9790. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

(703) 746-5651 (Use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper/amendment be faxed directly to them on occasions.).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Cheryl Lewis
Patent Examiner
April 15, 2004

JOHN BREENE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100